

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,)
Plaintiff,)
v.) C.A. No. 22-1377-MN
MASIMO CORPORATION and)
SOUND UNITED, LLC,)
Defendants.)
JURY TRIAL DEMANDED
PUBLIC VERSION

REPLY DECLARATION OF PETER C. MAGIC IN SUPPORT OF PLAINTIFF APPLE INC.'S MOTION FOR EXPEDITED DISCOVERY

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REPLY DECLARATION OF PETER C. MAGIC IN SUPPORT OF PLAINTIFF APPLE INC.'S MOTION FOR EXPEDITED DISCOVERY

I, Peter C. Magic, declare and state as follows:

1. I am an attorney and partner at the law firm Desmarais LLP, counsel of record for Plaintiff Apple Inc. (“Apple”) in the above-captioned case. I am licensed to practice law by and in good standing with the Bar of the State of California. I submit this declaration based on personal knowledge, and if called upon as a witness, could competently testify to the truth of each statement herein.

2. I submit this declaration in support of Apple's Reply Motion for Expedited Discovery, submitted concurrently herewith.

3. Attached as **Exhibit R** is a copy of Apple's Apple Watch Ultra Accessories webpage, available at <https://www.apple.com/us-edu/shop/product/MQE93AM/A/49mm-white-ocean-band> (last accessed Nov. 27, 2022).

4. Attached as **Exhibit S** is a copy of the Order No. 16 of Special Master Regarding Three Discovery Motions issued in *Masimo Corp. v. Apple Inc.*, D.I. 970, No. 20-cv-48-JVS-JDE (C.D. Cal.) (Oct. 28, 2022).

5. Attached as **Exhibit T** is a copy of the Order Granting Respondent's Motion to Preclude Stephen Jensen from Access to Confidential Business Information Under the Protective Order While Serving on Complainant's Board of Directors in *In the Matter of Certain Light-Based Physiological Measurement Devices and Components Thereof*, Inv. No. 337-TA-1276 (Int'l Trade Comm. Nov. 18, 2021).

6. Attached as **Exhibit U** is a copy of the Declaration of Stephen C. Jensen in Support of Plaintiffs' Motion for Protective Order in *Masimo Corp. v. Apple Inc.*, D.I. 61-3, No. 20-cv-48-JVS-JDE (C.D. Cal.) (Jun. 26, 2020).

7. Attached as **Exhibit V** is a copy of the Declaration of Stephen C. Jensen in Support of Plaintiffs' Motion for Entry of a Protective Order in *Masimo Corp. v. True Wearables, Inc.*, D.I. 82-2, No. 8:18-CV-02001-JVS-JDE (C.D. Cal.) (Mar. 16, 2020).

8. Attached as **Exhibit W** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00000888.

9. Attached as **Exhibit X** is an excerpted version of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00026896.

10. Attached as **Exhibit Y** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00029096.

11. Attached as **Exhibit Z** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00029101.

12. Attached as **Exhibit AA** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00029123.

13. Attached as **Exhibit AB** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00056071.

14. Attached as **Exhibit AC** is a copy of a confidential document produced by Apple in *Masimo Corp. v. Apple Inc.*, No. 20-cv-48-JVS-JDE (C.D. Cal.), identified by bates number APL_MAS_00056076.

15. Attached as **Exhibit AD** is a copy of J. Rafl, et al., *Commercial smartwatch with pulse oximeter detects short-time hypoxemia as well as standard medical-grade device: Validation study*, Digital Health, J. (Oct. 11, 2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9554125/>.

16. Attached as **Exhibit AE** is a copy of "Blood Oxygen app on Apple Watch" (October 2022), available at https://www.apple.com/healthcare/docs/site/Blood_Oxygen_app_on_Apple_Watch_October_2022.pdf.

17. Attached as **Exhibit AF** is a copy of Respondent Apple Inc.'s Second Corrected Post-Hearing Brief in *In the Matter of Certain Light-Based Physiological Measurement Devices and Components Thereof*, Inv. No. 337-TA-1276 (Int'l Trade Comm. Sept. 14, 2022).

I declare the foregoing to be true and correct under penalty of perjury.

Dated: November 28, 2022

By: /s/ Peter C. Magic

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